

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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HOME DEPOT YOUR OTHER  
WAREHOUSE LIMITED  
LIABILITY COMPANY and HOME  
DEPOT U.S.A., INC.,

Civil No. 04-3145 JRT/FLN

**ORDER**

Plaintiffs,

v.

MENARD, INC.,

Defendant.

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Christopher K. Larus and Jennifer A. Kitchak, FULBRIGHT & JAWORSKI,  
LLP, 80 South Eighth Street, Suite 2100, Minneapolis, Minnesota 55402, for  
plaintiff.

Allen W. Hinderaker and Ernest W. Grumbles, III, MERCHANT & GOULD, 80  
South Eighth Street, Suite 3200, Minneapolis, Minnesota 55402, for defendant.

It is so ordered that the Complaint in the above-captioned action shall be  
dismissed with prejudice pursuant to the Stipulation of Dismissal submitted by the parties  
in this case [Docket No. 41]. Count I of Defendant's Counterclaim is dismissed with  
prejudice and Count II is dismissed without prejudice. This matter is dismissed without  
costs or fees to any of the parties, pursuant to Fed. R. Civ. P. 41.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: October 18, 2005  
at Minneapolis, Minnesota

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s/John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge